

Biosolids Use Regulations Amendments

CHAPTER 585.

Article 1.
Definitions and General Information.

12 VAC 5-585-10. Definitions

A. Unless otherwise specified, for the purpose of these Biosolids Use Regulations, the following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Biosolids" means a sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains acceptable levels of pollutants, such that it is acceptable for use for land application, marketing or distribution in accordance with this chapter.

"Board" means the State Board of Health.

"Certificate" means a permit issued by the State Water Control Board in accordance with 9VAC25-30-10 et seq.

"Commissioner" means the State Health Commissioner or designee.

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"Critical areas/waters" means areas/waters in proximity to shellfish waters, a public water supply, recreation or other waters where health or water quality concerns are identified by the Department or the State Water Control Board.

"Conventional design" means the designs for unit operations (treatment system component) or specific equipment that has been in satisfactory operation for a period of one year or more, for which adequate operational information has been submitted to the Division to verify that the unit operation or equipment is designed in substantial compliance with this chapter.

"Department" means the State Department of Health.

"Discharge" means (when used without qualification) discharge of pollutant or any addition of any pollutant or combination of pollutants to State waters or waters of the contiguous zone or ocean other than discharge from a vessel or other floating craft when being used as a means of transportation.

"Division" means the Division of Wastewater Engineering of the Office of Environmental Health Services, the administrative unit responsible for implementing this chapter.

"Dry Tons" means dry weight established as representative of land applied biosolids and expressed in units of English tons.

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"Dry Weight" means the measured weight of a sample of sewage sludge or biosolids after all moisture has been removed in accordance with the standard methods of testing and often represented as a percent solids.

"Effluent limitations" means schedules of compliance, prohibitions, permit requirements, established under state or federal law for control of sewage discharges.

"Established fees" means a fee annually established by the Division per dry ton of biosolids managed by land appliers. Established fees shall not exceed the amount necessary to reimburse the direct costs for a reasonable amount of testing and for the local monitoring, of the land application of biosolids, by counties, cities and towns that have adopted local ordinances.

"Exceptional quality biosolids" means biosolids that have received an established level of treatment for pathogen control and vector attraction reduction and contain known levels of pollutants, such that they may be marketed or distributed for public use in accordance with this chapter.

"Facilities" means processes, equipment, storage devices and dedicated sites, located or operated separately from a treatment works, utilized for sewage

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sludge management, including but not limited to, handling, treatment, transport and storage of biosolids.

"Field office" means the Area Engineering Office through which the Division implements its field operations.

"Generator" means the owner of a sewage treatment works that produces sewage sludge and biosolids.

"Industrial wastes" means liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

"Land application" means the distribution of either treated wastewater of acceptable quality, referred to as effluent, ~~or supernatant from biosolids use facilities~~, or stabilized sewage sludge of acceptable quality, referred to as biosolids, upon, or insertion into, the land with a uniform application rate for the purpose of utilization, or assimilation ~~or pollutant removal~~. Bulk disposal of stabilized sludge in a confined area, such as in landfills, is not land application. Sites approved for land application of biosolids ~~or supernatant~~ in accordance with this chapter are not to be considered to be treatment works.

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"Land Applier" means someone who land applies biosolids pursuant to a valid permit from the Department as set forth in this chapter.

"Local Monitor" means a person or persons employed by local government to perform the duties of monitoring the operations of land appliers pursuant to a local ordinance.

"Local Ordinance" means an ordinance adopted by counties, cities or towns in accordance with section 62.1-44.19:3 subsection C of the Code of Virginia.

"Manual" and "manual of practice" means the provisions of Part III (12VAC5-585-420 et seq.) of this chapter.

"Nutrient Management Plan" means a plan prepared by a person certified by the Commonwealth as a Nutrient Management Planner and otherwise meeting the requirements as set forth in the Virginia Nutrient Management Training and Certification Regulations.

"Operate" means the act of ~~making a decision on one's own volition~~ an individual, not mandated upon such individual by any owner, which may have an impact on either, the finished water quality at a waterworks, or the final effluent at a sewage treatment works, or the State Water Quality Standards, such as: (i) to place into or take out of service a unit process or unit processes, ~~or~~ (ii) to make or cause adjustments in the operation of a unit process or unit processes at a treatment works, or (iii) to manage sewage sludge or biosolids.

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"Owner" means the Commonwealth or any of its political subdivisions including sanitary districts, sanitation district commissions and authorities, federal agencies, any individual, any group of individuals acting individually or as a group, or any public or private institution, corporation, company, partnership, firm or association which owns or proposes to own a sewerage system or treatment works, as defined by or in section 62.1-44.3 of the Code of Virginia.

"Permit" means either an authorization granted by the commissioner to construct, or operate, facilities and specific sites utilized for biosolids management, including land application, marketing and distribution of biosolids, or a Virginia Pollution Abatement permit issued by the Department of Environmental Quality, to a land applier.

"Permittee" means a person, firm, corporation, political subdivision or other entity holding a permit approved by the Department for the land application, storage or distribution of biosolids as provided for in this chapter.

"Pollutant" means any substance, radioactive material, or waste heat which causes or contributes to, or may cause or contribute to, pollution.

"Pollution" means such alteration of the physical, chemical or biological properties of any state waters or soil as will, or is likely to, create a nuisance or

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render such waters or soil: (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable ~~with~~ despite reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural or for other reasonable uses.; ~~provided that:~~

Such alteration is also deemed to be pollution, if there occurs:

(a) an alteration of the physical, chemical or biological property of state waters, or a discharge or a deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of, or discharge, or deposit, to state waters by other owners, is sufficient to cause pollution;

(b) the discharge of untreated sewage by any owner into state waters;

(c) ~~contributing to the contravention of standards of water quality duly established by the State Water Control Board, are "pollution" for the terms and purposes of this chapter.~~

"Primary sludge" means sewage sludge removed from primary settling tanks that is readily thickened by gravity thickeners.

"Process" means a system, or an arrangement of equipment or other devices ~~such that~~ remove from a waste material ~~can be subsequently treated to remove~~ pollutants, including, but not limited to, a treatment works or portions thereof.

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"Reimbursement application" means forms approved by the Division to be used to apply for reimbursement of local monitoring costs for land application of biosolids, in accordance with the provisions of this chapter. The application shall consist of a formal written request and any accompanying documentation submitted by a local government in accordance with a local ordinance.

"Settled sewage" is effluent from a basin in which sewage is held or remains in quiescent conditions for 12 hours or more and where the residual sewage sludge is not reintroduced to the effluent following the holding period. Sewage flows not in conformance with these conditions providing settled sewage shall be defined as nonsettled sewage.

"Sewage" means the water-carried and nonwater-carried human excrement, kitchen, laundry, shower, bath or lavatory wastes, separately or together with such underground, surface, storm and other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

"Sewage sludge" or "sludge" means any solid, semisolid, or liquid residues which contain materials removed from municipal or domestic wastewater during treatment including primary and secondary residues. Other residuals or solid

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wastes consisting of materials collected and removed by sewage treatment, septage and portable toilet wastes are also included in this definition.

Liquid sludge contains less than 15% dry residue by weight. Dewatered sludge contains 15% or more dry residue by weight.

~~The liquid obtained from separation of suspended matter during sludge treatment or storage is referred to as supernatant.~~

~~"Shall" means a mandatory requirement.~~

~~"Should" means a recommendation.~~

"Sludge management" means the treatment, handling, transportation, storage, use, distribution or disposal of sewage sludge.

"Soil analysis" is a chemical testing procedure to determine the nutrient content of soils in a given field. Soil analyses generally include testing for soil pH, P (Phosphorus), K (Potassium), Ca (Calcium), Mg (Magnesium), Zn (Zinc), Mn (Manganese), Cu (Copper), Fe (Iron) and B (Boron).

"State waters" means all water, on the surface and under the ground, wholly or partially within, or bordering the state or within its jurisdiction.

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"Substantial compliance" means designs that do not exactly conform to the ~~guidelines~~ standards set forth in ~~Part III~~ this chapter as contained in documents submitted pursuant to 12VAC5-585-130 but whose construction will not substantially affect health considerations or performance of the sewerage system or treatment works.

"Supernatant" is the liquid obtained from separation of suspended matter during sludge treatment or storage.

"Surface waters" means (i) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (ii) all interstate waters, including interstate "wetlands"; (iii) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (a) which are or could be used by interstate ~~or~~ travelers for recreational or other purposes, (b) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce, or (c) which are used or could be used for industrial purposes by industries in interstate commerce; (iv) all impoundments of waters otherwise defined as waters of the United States under this definition; (v) tributaries of waters identified in clauses (i)

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through (iv) of this definition; (vi) the territorial sea; and (vii) "wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in clauses (i) through (vi) of this definition.

"Toxic pollutant" means any agent or material including, but not limited to, those listed under Section 307(a) of the Clean Water Act which after discharge will, on the basis of available information, cause toxicity.

"Toxicity" means the inherent potential or capacity of a material to cause adverse effects in a living organism, including acute or chronic effects to aquatic life, detrimental effects on human health or other adverse environmental effects.

"Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power and other equipment and their appurtenances, septic tanks and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluents resulting from such treatment. "Treatment works" does not include biosolids use on privately owned agricultural land.

"Use" means to manage or recycle a processed waste product in a manner so as to derive a measurable benefit as a result of such management.

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"Variance" means ~~any mechanism or provision which allows~~ a conditional approval based on a waiver of specific regulations to a specific owner relative to a specific situation under documented conditions for a specified time period.

"Water quality standards" means the narrative statements for general requirements and numeric limits for specific requirements that describe the water quality necessary to meet and maintain reasonable and beneficial uses. Such standards are established by the State Water Control Board under §62.1-44.15(3a) of the Code of Virginia.

B. Generally used technical terms not defined in subsection A of this section or the Department's latest definitions of technical terms as used to implement § 32.1-164, et. seq., shall be defined in accordance with "Glossary--Water and Wastewater Control Engineering" published by American Public Health Association (APHA), American Society of Civil Engineers (ASCE), American Water Works Association (AWWA), and Water ~~Pollution Control~~ Environment Federation (~~WPCF~~ WEF).

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12 VAC 5-585-40. Fees. All land appliers operating on permitted sites within the jurisdiction where a local ordinance has been adopted pursuant to § 62.1-44.19:3, shall be subject to payment of fees as specified in this Chapter.

12 VAC 5-585-50. Reimbursement. Reimbursement of Local Monitoring costs deemed reasonable by the Division, will be made in order of receipt of an acceptable invoice. Such invoices will be reimbursed for reasonable costs of at least \$2.50 per dry ton of biosolids land applied in a County during the period of time specified in the submitted invoice. If sufficient revenue from collected fees exists, then invoiced claims exceeding \$2.50 per dry ton of biosolids land applied in that County, during the period of time specified in the submitted invoice, may be released for reimbursement of up to \$4.00 per dry ton of biosolids land applied in that County, based on the order of receipt of the invoice.

12 VAC 5-585-270. Biosolids Use Regulation Advisory Committee.

~~A. The commissioner shall appoint a regulations advisory committee consisting of eight appointed members and four ex-officio members as specified below. The appointed committee members may be selected from organizations such as:~~

- ~~1. The Virginia Water Environment Association~~
- ~~2. The Virginia Department of Agriculture and Consumer Services~~
- ~~3. Virginia Society of Professional Engineers~~
- ~~4. Sewerage Systems and Treatment Works Owners~~
- ~~5. Sludge Management Contractors~~

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~~6. State Universities and College Faculty~~

~~B. Consideration shall also be given to appropriate citizens who are not members of these organizations. All terms for appointed members shall be four years in duration, and members shall not be appointed for more than two consecutive terms. Four of the eight appointed members shall serve an initial term of two years with subsequent terms of four years. The committee ex-officio members are:~~

- ~~1. The Director of the Office of Water Programs~~
- ~~2. The Director of the Division of Wastewater Engineering~~
- ~~3. The Office of Water Resources Management, Water Division, Virginia Department of Environmental Quality~~
- ~~4. The Division of Soil and Water Conservation, Virginia Department of Conservation and Recreation~~

~~Each committee member may designate an alternate to serve when necessary. The secretary to the committee will be a staff member of the division. The function of the committee will be to make recommendations directly to the commissioner concerning the biosolids use regulations and other similar policies, procedures and programs. The committee will meet semi-annually or more frequently at the call of the chairman. The committee's meetings will be advertised and open to the public, and comments and recommendations from the public will be received.~~

The commissioner shall appoint a committee to advise the commissioner on issues related to implementation and administration of this chapter. The committee shall consist of at least eight appointed members and four ex-officio members as specified in this section. Advisory committee membership should include representatives of large size and small size communities and industries and their consultants.

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A. Organizations. The appointed committee members shall be selected from organizations such as:

i. The Virginia Association of Counties (VACO)

ii. Virginia Municipal League(VML) and the Association of Municipal Wastewater Agencies (VAMWA)

iii. Virginia Professional Societies(i.e., Engineers and Soil Scientists)

iv. Biosolids Consultants and Contractors

v. State Universities and College Faculty

vi. Agricultural Industry and The Virginia Farm Bureau

B. Consideration. Consideration shall also be given to appropriate citizens who are not members of these organizations and other interested parties and groups such as citizens conservation organizations.

C. Terms. All terms for appointed members shall be four years in duration, and members should not be appointed for more than two consecutive terms. Four of

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the eight appointed members shall serve an initial term of two years with subsequent terms of four years. The ex-officio members are:

i. The Director of the Office of Environmental Health Services

ii. The Director of the Division of Wastewater Engineering

iii. The Director of the Department of Conservation and Recreation,
Nutrient Management Program

iv. The Department of Environmental Quality and the Department of
Agriculture and Consumer Services may designate ex-officio
members from their staff. Each committee member may designate
an alternate to serve when necessary. The Secretary to the
Committee will be a staff member of the Division.

D. Purpose. The function of the Committee will be to meet, discuss issues, and
make recommendations directly to the Commissioner, concerning the regulations
and standards contained in this chapter and other policies, procedures, and
programs for regulating biosolids use and associated fees. The committee will
meet semi-annually or more frequently at the call of the Chairman. The
Committee's meeting will be advertised and open to the public, and comments
and recommendations from the public will be received.

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Part VI.Fees and Reimbursable Costs

12 VAC 5-585-660. Established fees. Those land appliers operating in Counties, Cities or Towns that have adopted local ordinances, shall remit the established fees to the Division as specified in this chapter. The land appliers shall collect the required fees from the owners of the sewage treatment works and facilities that generate the biosolids. Such works and facilities shall be approved sources of biosolids in accordance with the Biosolids Use Regulations (12 VAC 5-585). Land application of sewage sludge shall only include biosolids from approved sources as listed in the land application permit. The established fee shall be imposed on each dry ton of sewage sludge that is land applied in the Commonwealth in accordance with this chapter. No fee shall be imposed on materials classified as "exceptional quality biosolids" or the equivalent thereof, as defined by the Biosolids Use Regulations (12 VAC 5-585).

1. A fee shall be two dollars and fifty cents (\$2.50) per dry ton of biosolids land applied in counties, cities or towns that have adopted local ordinances, to be adjusted annually in accordance with the federal consumer price index (CPI).

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2. Disbursement of the established fees collected by the Division shall be made to reimburse or partially reimburse those counties, cities and towns with duly adopted local ordinances, that submit documentation of reimbursable expenses acceptable to the Department as provided for in this chapter and as described in a Biosolids Fee Guidance Manual provided to local governments and land appliers by the Department.

12 VAC 5-586-670. Payment of fees. A. Except as specified in this chapter, all fees are due on the day specified by the Department. Payment of the fee shall be made by land appliers following notification by the Division of the fee due. No permit, or modification of an existing permit, will be approved in the jurisdiction where payment of the established fee by the land applier has not been received by the due date, until such time that the fees are paid in full. Existing permits may be revoked or approved sources may be reclassified as unapproved, unless the required fee is paid within 60 days of the notification by the Division of the fee due.

B. Fees shall be paid by check, draft or postal money order payable to the Commonwealth of Virginia, Department of Health and must be in U.S. currency, except that agencies and institutions of the Commonwealth of Virginia may submit Interagency Transfers for the amount of the fee.

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C. All incomplete payments will be deemed nonpayments.

12 VAC 5-586-680. Deposit and Use of Fees. All fees collected pursuant to this regulation shall be retained in a special non-reverting fund to be administered by the Department of Health established as the Virginia Department of Health Biosolids Fee Fund and used and accounted for as specified in §62.1-44.15:7 of the Code of Virginia.

12 VAC 5-585-690. Reimbursable Costs.. The following describes the kinds of activities for which expenses may, if reasonable be submitted for reimbursement:

1. Charges for reviewing the permit application to identify potential health protection issues.
2. Charges and expenses, including travel, for site monitoring, inspections, sample collection and delivery and examination of records as detailed in the Biosolids Fee Guidance Manual.
3. Charges for record keeping including activities listed in the Biosolids Fee Guidance Manual.
4. Charges for complaint and incident response, including activities listed in the Biosolids Fee Guidance Manual.

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5. Charges for biosolids and soil sample testing costs, as provided for in the Biosolids Fee Guidance Manual.

6. Charges for the training of local monitors as provided for in the Biosolids Fee Guidance Manual.

12 VAC 5-585-700. Collection of fees. A. Records. In those jurisdictions that have duly adopted local ordinances, permittees shall maintain complete records of the land application activities and amounts of biosolids that they land apply. Such records shall be maintained by the permittee in a form that is available for inspection by the Division, for five years after the date of the activity. Records of land application activities shall include the following minimum information:

1. Name of Permittee, VDH permit number and date(s) of activity.
2. Identification of land application site, including the County where taxes are remitted and permitted site identification name, letters and numbers, as appropriate.
3. The source of biosolids and approximate field area receiving those biosolids.
4. The amount of biosolids applied in dry tons and the method and calculations used to determine the reported value.

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5. Date(s) and type of any interactions with local monitor(s) and names of individuals involved in the interactions.
6. Name of responsible representative of permittee and a statement signed and dated by that representative indicating that the information submitted has been verified by that representative as correctly reported in accordance with this chapter.

B. Reports and Notification. The permittee shall submit a monthly report by the 15th day of the month following the month that land application occurs. That report shall include the recorded information listed in 12 VAC 5-586.170A and present a calculation of the total fee that is required in accordance with this chapter. The submitted report shall include a summary list of the total amount of biosolids applied and calculated fee based on the land applied biosolids, for each County in which land application occurred, in alphabetical order by County. The Division will review the submitted report(s) and notify the permittee of the reimbursement amount within 14 days of the date that the report is received. Such notification will explain the reasons for any differences between the reported fee calculation and the reimbursement amount.

12 VAC 5-585-710. Reimbursement of fees.

A. Application. Local government must submit a reimbursement application to request reimbursement from the Division. All information is to be clearly typed or printed and all required or supporting documents must be attached. The County

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Administrator or designated local biosolids monitor, shall sign and date the application where indicated. The original signed application with one copy of each of the supporting documents is to be forwarded to the Division. Applications may not be submitted by facsimile or through electronic means. A reimbursement invoice form as described in this chapter must be completed before a reimbursement application can be submitted. The invoice form must include all expenses for which reimbursement is requested during the designated time period.

B. Application Forms and Submittal. The application for reimbursement must be submitted within 120 days of the last day of the month in which the reimbursable activity occurred. All applications received after this time frame will be ineligible for reimbursement. The following is a description of the application forms and an explanation of their use. The application forms and detailed instructions can be obtained from the Division.

1. Form 1 - Reimbursement Application. An Invoice Form shall be submitted with each application for reimbursement. The invoice form should list all reimbursable charges. To be reimbursed for eligible expenses, an applicant must provide documentation to demonstrate that the expenses were incurred. Invoices are acceptable proof of incurred expenses. Include legible copies of invoices signed by the local biosolids

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monitor or agent who performed or managed the monitoring activities. All invoices are to include the following:

a. VDH BUR Permit Number and site identification,

b. (Number), or site address,

c. Biosolids Contractor's Name,

d. Date and type of activity monitored

e. Name of biosolids monitor

f. Number of hours to be reimbursed and charge per hour

g. List of expenses for which reimbursement is sought

h. Type of sampling activity performed and associated laboratory expense vouchers.

The application requires the County Administrator to certify that the responsible official has read and understands the requirements for reimbursement and that the application submitted is not fraudulent. The

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local monitor must attest to the accuracy and completeness of the information provided.

2. Form 2 - Multiple Owners Payment Assignment Form. When there are multiple local governments as claimants, a separate, signed and notarized invoice form for each claimant must be filled out and submitted with the first application.

3. Submittal of Application. Submittal of the original completed reimbursement application, including the application worksheets and the appropriate supporting documentation, should be accomplished by mailing these documents to:

Virginia Department of Health, Division of Wastewater Engineering

1500 East Main Street, Room 109, Richmond, Virginia 23219

12 VAC 5-585-720. Processing Applications. When the Division finds essential information is missing, an evaluation will be made to determine whether the claim can be processed without the information and if so, what impact the missing information will have with respect to the amount approved for reimbursement. If the claim can be processed without the missing information then the claim may be processed "as is." If it is not possible to process the claim "as is," the Division will contact the claimant and attempt to resolve the deficiency(ies). If contacted, an applicant will have 14 days from the date of the call or letter to submit the

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information requested and cure any deficiencies. Extensions of the 14-day deadline will not be granted. An application which does not contain all of the required information after the 14 day time frame may be rejected or processed "as is", which can result in complete denial or a partial reimbursement. In rare cases, an application may have so many deficiencies, or defects, that it cannot be processed and is rejected immediately, with a written explanation of the defects and remedies needed.

1. After receipt of an application for reimbursement of biosolids monitoring costs, the Division will evaluate it to determine whether:

a. the invoiced costs are eligible for reimbursement;

b. the application has been completed correctly, including all required signatures;

c. all of the necessary forms and documentation have been submitted;

d. there are any costs submitted for reimbursement that are not eligible;

2. Upon completion of the reviews described above, the Division will render reimbursement decisions, as described in the Biosolids Fee

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Guidance Manual, based upon the information contained in the file. These reimbursement decisions will be documented and communicated to the applicant through a reimbursement decision letter.

3. Only invoices pertaining to the monitoring activity being claimed in the current application will be accepted. Costs omitted from previous claims are ineligible for reimbursement in subsequent claims. Likewise, invoices submitted in previous claims will not be eligible documentation for reimbursement of costs in subsequent claims. To reduce the risk of disqualification of costs, costs for different monitoring activities should be invoiced separately. If possible, invoices should be structured so that costs are grouped according to task or activity.

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12 VAC 5-585-730. Decisions Regarding Reimbursements. Following a reimbursement decision, the Division will prepare a reimbursement decision letter. The reimbursement decision letter will include information on the total amount requested in the application, the amount disallowed, the amount approved, and the total amount of any previous payments in cases where full reimbursement has been delayed. If the Division determines that a claim should not be paid in full, the reimbursement payment decision will briefly describe the reason for the amount awarded or denied. The check for payment of reimbursement will be mailed separately and follows the decision package by one to two weeks.

12 VAC 5-585-740. Reconsideration Process. The claimant will be given the opportunity to submit a written response indicating why costs denied on the reimbursement decision should be paid. A Reconsideration Procedure Package for filing the objection will be mailed with the reimbursement decision letter.

A. If the claimant disagrees with the decision in the reimbursement payment package, a Notice of Intent (NOI) to object and a Reconsideration Claim Form must be submitted to the Division within the filing deadlines specified in the Reconsideration Procedure Package.

If filing deadlines are not met, the decision in the reimbursement payment package is final. This written objection is to be in the format specified in the Reconsideration Procedure Package and explain the reasons for disagreement

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with the decisions in the reimbursement payment letter, and supply any additional supporting documentation. Upon receipt of this information and at the claimant's request, the Division will schedule a reconsideration meeting to re-evaluate the denied costs.

B. Claimants will be given an opportunity to contest the reimbursement decisions.

The claimant's notification of the process to contest the reimbursement decision will be included in the reimbursement payment letter. The reimbursement letter will inform the claimant that:

1. if requested in the NOI the claimant may have a conference with a technical reviewer prior to the reconsideration meeting
2. the claimant may appear in person or be represented by counsel or other qualified representative for the presentation of factual data, argument, or other proof in connection with the claim
3. the meeting discussions will be recorded
4. the claimant may contest the decision in writing (i.e., without a meeting);
5. the claimant may request copies (at claimant's expense) of the reimbursement file
6. the claimant is required to notify the Division in writing of their intention to contest the reimbursement decision within filing deadlines

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7. the claimant must specify in the written Notice of Intent whether the claimant seeks to contest the decision through a meeting or in writing only and

8. within the filing deadline, the claimant must submit a written summary of the issues that will be contested using the Reconsideration Claim Form.

C. The reconsideration procedures provide the Division the opportunity to correct certain errors. The following types of errors can be corrected.

1. Failure of the Reviewer to verify an Invoice Form which was received prior to completing the verification package for the Reimbursement.

2. Errors the Reviewer makes in verifying an Invoice Form.

3. Failure of the claimant to submit all invoices.

D. Notwithstanding the above, some types of errors cannot be corrected. It is the responsibility of the claimant and/or consultant to ensure that all application forms (Invoice Forms, and sampling and testing verification) are completely and accurately filled out. Failure to exercise proper care in preparing an application may result in a denial of costs, which cannot be corrected through the reconsideration process, including:

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1. Items omitted from the Invoice Form will not be eligible for reimbursement

2. Unverified sampling and testing results will not be eligible for reimbursement.

3. No additions or revisions to the Invoice Forms will be accepted from the claimant after the Reviewer forwards the verification package to the Division.

4. Using one invoice in multiple claims. Invoices submitted in an application cannot be used as documentation for reimbursement of costs in subsequent claims.

5. The following are types of errors that cannot be corrected:

a. Failure to claim performed work on the Invoice.

b. Failure to claim sampling and testing costs as authorized

c. Failure to claim all costs in a submitted invoice

d. Failure to submit to the Reviewer all supporting documentation to demonstrate the necessity of work performed which exceeds expected activities. Such documentation must be submitted before the Reviewer forwards the verification package to the Division.

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12 VAC 5-585-750. Delayed Payment of Properly Invoiced Claims

A. The Biosolids Fee Fund balance may fluctuate and may drop, due to increased claim filings and reduced revenue, to a level where it is no longer possible to pay all claims. When the Fund balance approaches this level, VDH will take the necessary steps to increase the amount of the fee collected pursuant to §62.1-44.19:3 of State Water Control Law. During these cycles VDH may find it necessary to implement Delayed Payment Claim Processing Procedures or make partial payments based on monies available in the Biosolids Fee Fund. An award to a County cannot exceed a total of \$4.00 per dry ton of biosolids land applied in that County during the period of time specified in the submitted invoice.

B. When Delayed Payment Claim Processing Procedures are implemented, claims will be processed as usual, and once completed they will be placed on a release request listing. When Decision Packages are mailed out, claimants will be notified that their claim will be paid as money becomes available. Claims will be organized on the Release Request Listing in order by the week the claim was completed.

C. For claims completed within the same week, they will be listed in order by the received date. Each month, the Division will determine the amount of revenue received which can be made available for claim payments, and claims will be released, with reimbursement of at least \$2.50 per dry ton of biosolids land applied in that County during the period of time specified in the submitted invoice.

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based on their placement on the list. Claimants will receive a letter notifying them that the claim has been released, followed within seven to ten days by a check.

D. Once higher revenue is received, claims will be released which have been delayed in earlier months , with reimbursement of at least \$2.50 per dry ton of biosolids land applied in that County during the period of time specified in the submitted invoice, prior to releasing any current claim payments. If sufficient revenue exists, then delayed claims exceeding \$2.50 per dry ton of biosolids land applied in that County, during the period of time specified in the submitted invoice, may be released for reimbursement of up to \$4.00 per dry ton of biosolids land applied in that County, based on their placement on the list. Due to possible fluctuations in claim amounts and revenues received, it may not be possible for the Division to predict exactly how long Delayed Payment Processing will continue.